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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,123	02/06/2004	Peter W. Swart	550299.00047	8397
26710	7590	09/15/2005	EXAMINER	
QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497			FETSUGA, ROBERT M	
		ART UNIT		PAPER NUMBER
				3751

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/774,123	SWART ET AL.	
	Examiner	Art Unit	
	Robert M. Fetsuga	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 February 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-18 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/06/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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1. The reference to the U.S. application incorporated at page 5 of the specification could be replaced with the corresponding patent number.

2. The disclosure is objected to because of the following informalities: Paragraph 0028, line 1, "40-40C" apparently should be --40A-40C--.

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "no less than" language set forth in claim 3 could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the

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invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5-7, 9, 10, 17 and 18 are rejected under 35 U.S.C. 102(a)/(e) as being anticipated by Castellote.

The Castellote reference (Fig. 2) discloses an air bath comprising: a basin B including bottom 50 and side 52 walls; a plurality of air jets 14; an air manifold 16'; a blower 10; and conduit 18, as claimed. Re claim 1, the rows of jets defined by manifolds 16' in Fig. 2 are considered to be "arranged in spaced relation in a plurality of rows extending essentially around the perimeter of the side walls". Re claims 5-7, the choice of size and number is contemplated by Castellote at paragraph 0005.

6. Claims 1-11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castellote.

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Re claims 1-4, 7, 8 and 10, the choice of jet arrangement (number/orientation of jets/rows, etc.) would appear an obvious choice to be made as taught by Castellote at paragraphs 0040 and 0056, for example.

Re claim 11, Castellote discloses the common provision of an integral manifold at paragraph 0005. Therefore, in consideration of Castellote, it would have been obvious to one of ordinary skill in the air bath art to provide the manifold in an integral manner in order to produce a one-piece bath.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castellote and Carrier.

Although the manifold of the Castellote air bath is not a single air channel, as claimed, attention is directed to the Carrier reference which discloses an analogous air bath which further includes a manifold 33,34 having a single air channel (col. 3 lns. 39-41). Therefore, in consideration of Carrier, it would have been obvious to one of ordinary skill in the air bath art to associate a single air channel with the Castellote manifold in order to facilitate use with a single blower.

8. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castellote and Nicollet.

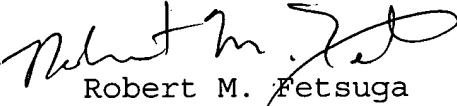
Although the air channels (16) of the Castellote air bath do not include zones, as claimed, attention is directed to the

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Nicollet reference which discloses an analogous air bath which further includes air channels 31 that are zoned (col. 3 lns. 1-11). Therefore, in consideration of Nicollet, it would have been obvious to one of ordinary skill in the air bath art to associate zones with the Castellote air channels in order to facilitate body treatment.

9. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

10. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
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